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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/068,887

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Alexander E. Malison

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05/12/2008

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EXAMINER

SHERR, CRISTINA O

ART UNIT

PAPER NUMBER

3621

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/068,887	<b>Applicant(s)</b> MALISON, ALEXANDER E.	
	<b>Examiner</b> CRISTINA OWEN SHERR	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01/08/08.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15,41-51 and 58-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15,41-51 and 58-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/12/07</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This communication is in response to applicant's amendment filed January 8, 2008. Claims 1-15, 41-51, 58-72 are currently pending in this case. Claims 1, 2, 4, 5, 6, 7, 8, 10, 11, 12, 13, 15, 41, 51, 58, 59, 60, 61, 62, 66, 67, 70, and 71,

### ***Election/Restrictions***

2. Examiner acknowledges the applicant's response to the requirement for restriction mailed on July 27, 2007, and the said requirement is hereby withdrawn.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on March 12, 2007 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-15, 41-51, 58-68, and 70-72 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-15, 41-51, 58-68, 70-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montague et al (US 5,504,589) in view of Duwaer (US 5,231,381).

7. Regarding claim 1 –

Montague discloses a user interface for receiving an order (e.g. abs, col 1 ln 40-45) comprising: (a) an input area adapted to receive handwritten input indicating an item to add to the order (e.g. col 1 ln 65-67); (b) a selection window adapted to display items corresponding to the handwritten input (e.g. fig. 5, col 5 ln 1-10); and (c) an order window adapted to display selected items, as the order (e.g. col 5 ln 5-10, col 6 ln 20-25).

8. Montague does not disclose, but Duwaer does, wherein the user interface simultaneously displays the input area, the selection window, and the order window while handwritten input is received in the input area. (e.g. abs).

9. It would be obvious to one of ordinary skill in the art to combine the teaching of Montague and Duwaer in order to expedite ordering in restaurants.

10. Regarding claim 2 –

Montague discloses the user interface of claim 1, wherein the handwritten input area is receives handwritten input indicating a command associated with the order.(e.g. col 2 ln 1-5).

11. Regarding claim 3 –

Montague discloses the user interface of claim 2, wherein the command is one of creating the order, retrieving the order, voiding the order, retrieving a status of the order, sending the order to preparation area, adjusting quantities associated with the order, adjusting seat numbers associated with the order, printing a check remotely for the order, printing a

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check locally for the order, settling a check for the order, adding a complimentary item to the order, processing a split check for the order, searching for items, providing an incremental lookup, displaying items in groups, searching for modifiers, logging on an employee, and logging out an employee. (fig 4 col 4 ln 20-67).

12. Regarding claim 4 –

Montague discloses the user interface of claim 1, wherein the handwritten input area receives handwritten numeric input associated with the order. (col 2 ln 1-5).

13. Regarding claim 5 –

Montague discloses the user interface of claim 1, wherein the handwritten input area receives a selection of the item, wherein the selection is a handwritten character. (e.g. col 4 ln 20-45).

14. Regarding claim 6 –

Montague discloses the user interface of claim 1, wherein the selection window receives a selection of an item from the displayed items, wherein the selection is a touch of the item listed in the displayed items. (e.g. col 5 ln 10-25).

15. Regarding claim 7 –

Montague discloses the user interface of claim 1, wherein the handwritten input area recognizes an abbreviation of the item as the handwritten input. (e.g. 5 ln 30-40).

16. Regarding claim 8 –

Montague discloses the user interface of claim 1, further comprising an entry status bar that displays characters that are entered in the handwritten input area, as the characters are being entered. (col 5 ln 30-40).

17. Regarding claim 9 –

Montague discloses the user interface of claim 1, further comprising a button that executes a command associated with the order. (col 5 ln 20-45).

18. Regarding claim 10 –

Montague discloses the user interface of claim 1, wherein the handwritten input area receives keyboard input as an alternative to the handwritten input. (col 3 ln 40-55).

19. Regarding claim 11 –

Montague discloses the user interface of claim 1, wherein the handwritten input area is further adapted to receive receives a second handwritten input indicating a modifier associated with a selected item, wherein the selection window displays modifiers corresponding to the second handwritten input, and wherein the order window displays selected modifiers in the order. (col 4 ln 30-40).

20. Regarding claim 12 –

Montague discloses the user interface of claim 11, wherein the selection window receives a selection of a modifier from the displayed modifiers, wherein the selection is a touch of the modifier listed in the displayed modifiers. (e.g. col 4 ln 6-9, col 8 ln 32-39).

21. Regarding claim 13 –

Montague discloses wherein the handwritten input area is adapted to recognize recognizes an abbreviation of the modifier as the second handwritten input. (e.g. col 5 ln 1-10).

22. Regarding claim 14 –

Montague discloses wherein the user interface further comprises a toggle button that configures the handwritten input area to receive a handwritten input as one of an item and a modifier. (e.g. col 6 ln 3-10, where F2 is used as a toggle button).

23. Regarding claim 15 –

Montague does not specifically disclose a user interface of claim 11, wherein the user interface is adapted to require a user to choose a modifier after the user interface receives a selected item, however the various adaptations referenced in Montague make this a possible embodiment, see, e.g. col 4 ln 1-9, col 4 ln 49-61, col 5 ln 1-10, fig. 5, etc.). Additionally, *KSR* forecloses Appellant's argument that a specific teaching is required for a finding of obviousness. *KSR*, 127 S.Ct. at 1741, 82 USPQ2d at 1396.

24. Claims 41-51, 58-68, and 70-72 are rejected under the same criteria as above.

25. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

27. Olewicz et al (US 6,973,437) disclose a computer integrated communication system for restaurants.

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

29. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CRISTINA OWEN SHERR whose telephone number is (571)272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

31. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571)272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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32. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cristina Owen Sherr  
Patent Examiner, AU 3621

/Jalatee Worjloh/

Primary Examiner, Art Unit 3621